

A RESOLUTION BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE:

A RESOLUTION AUTHORIZING: [I] THE SETTLEMENT OF ALL CLAIMS IN THE CASE OF FELCOR LODGING LIMITED PARTNERSHIP V. CITY OF COLLEGE PARK, THE COLLEGE PARK BUSINESS AND INDUSTRIAL DEVELOPMENT AUTHORITY AND CITY OF ATLANTA; UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, CIVIL ACTION FILE NO. 1:03-CV-0753-WSD; [II] AUTHORIZING THE CITY TO PAY \$1,250,000 TO FELCOR IN SETTLEMENT OF THE SUIT, SUCH PAYMENT TO BE CHARGED TO AND PAID FROM FUND ACCOUNT AND CENTER NUMBER AS FOLLOWS: "2H21 529017 T31001"; [III] AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND [IV] FOR OTHER PURPOSES.

WHEREAS, throughout 1999 and 2000, the City of Atlanta ("City") negotiated with the City of College Park ("CP") for condemnation rights for an expansion project at Hartsfield-Jackson Atlanta International Airport (the "Airport"); and

WHEREAS, as a condition to granting such powers, CP required the City to purchase the facility where the Georgia International Convention Center was formerly located (the "Old GICC"); and

WHEREAS, in March 2000, the City and CP entered into an Intergovernmental Agreement ("IGA") that contained, among other things, the City's agreement to purchase the Old GICC; and

WHEREAS, the IGA also provides that "the City of Atlanta shall not operate, or allow the [Old GICC] to be operated, as a civic, convention, or trade facility in competition with any such facility of such nature owned or operated by the College Park Business and Industrial Development Authority or the City of College Park."; and

WHEREAS, Plaintiff, Felcor Lodging Limited Partnership ("Plaintiff"), owns a hotel connected to the Old GICC; and

WHEREAS, Plaintiff filed a lawsuit against the City, CP and the College Park Business and Industrial Development Authority (the "Authority") seeking over \$40 million in damages, contending that a provision in a certain 1993 lease (the "Lease"), originally between CP and the hotel tenant, but acquired by the City, for certain space in the Old GICC, requires the City and

other defendants to operate the entire Old GICC as a civic, convention or trade center through 2038 and that the defendants had breached this provision; and

WHEREAS, the City disputes Plaintiff's contentions and has defended against Plaintiff's lawsuit for over two years, arguing that Plaintiff's interpretation of the Lease provision was out of context with the remainder of the Lease; and

WHEREAS, Plaintiff and the defendants in the lawsuit have negotiated a tentative settlement of it in the total amount of \$2,500,000, with the City and CP each paying \$1,250,000; and

WHEREAS, Plaintiff has agreed to execute with the City an amendment to the Lease clarifying that the Old GICC does not have to be operated as a civic, convention, or trade center; and

WHEREAS, the City Attorney, in consultation with the Aviation General Manager, have determined that the proposed settlement is desirable and in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA that the City Attorney is authorized, on behalf of the City, to settle the case of FELCOR LODGING LIMITED PARTNERSHIP v. CITY OF COLLEGE PARK THE COLLEGE PARK BUSINESS AND INDUSTRIAL DEVELOPMENT AUTHORITY, AND CITY OF ATLANTA; UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, CIVIL ACTION FILE NO. 1:03-CV-0753-WSD, by contributing to Plaintiff the sum of \$1,250,000.00, in full settlement of the claims in the case; provided, however, that CP also contributes an equal amount in such settlement.

BE IT FURTHER RESOLVED that the Chief Financial Officer is authorized to issue the City's check in the sum of \$1,250,000.00, payable to "FelCor Lodging Limited Partnership," (Taxpayer Identification Number 75-2544994), and deliver it to Ronald L. Reid, Esq. of Alston & Bird LLP, attorneys for Plaintiff, and to charge such amount to Fund Account and Center Number as follows: "2H21 629017 T31001."

BE IT FURTHER RESOLVED that the City Attorney is authorized to enter into a Mutual Release and Settlement Agreement among the Plaintiff, CP and the Authority in settlement of the lawsuit, and to further execute and deliver any additional documents, agreements and pleadings necessary and appropriate to effectuate the settlement authorized by this Resolution.

BE IT FURTHER RESOLVED, that the Mayor of the City is authorized to enter into with the Plaintiff an Amendment to the Lease clarifying that the Old GICC does not have to be operated as a civic, convention, or trade center and to further execute and deliver any additional documents or agreements necessary and appropriate to effectuate the settlement authorized by this Resolution.

BE IT FURTHER RESOLVED that the: [i] Mutual Release and Settlement Agreement will not become binding on the City and the City will incur no liability under it until it has been executed by the Plaintiff, the Authority, CP and the City Attorney, attested to by the Municipal Clerk, and delivered to all of the parties; and [ii] Amendment to the Lease will not become binding on the City and the City will incur no liability under it until it has been executed by the Plaintiff and the Mayor, attested to by the Municipal Clerk, approved by the City Attorney as to form and delivered to the Plaintiff.